

ESWATINI FINANCIAL INTELLIGENCE UNIT GUIDELINE

On Cash Threshold Reporting by The Eswatini Financial Intelligence Unit in Terms of Section 12 *bis* of the Money Laundering and Financing of Terrorism (Prevention) (Amendment) Act, 2011



September 2024

PREFACE

- i) The Eswatini Financial Intelligence Unit (EFIU) has published draft guideline that will be required to support the implementation of the Money Laundering and Financing of Terrorism (Prevention) Act, 2011(MLTFP Act).
- ii) Section 19 of the MLFTP Act established the EFIU as an autonomous central national agency responsible for receiving, requesting, analyzing and disseminating to competent authorities' disclosures of financial information as required under the MLFTP Act to counter money laundering and financing of terrorism.
- iii) This guidance is issued in terms of section 31 (i) of the MLFTP Act which empowers the EFIU to provide guidance in relation to a number of matters concerning compliance with the obligations of the MLFTP Act. Guideline issued by the EFIU is authoritative in nature which means that accountable institutions must take the guideline issued by the EFIU into account in respect of their compliance with the relevant provisions of the MLFTP Act. If an accountable institution does not follow the guideline issued by the EFIU, it should be able to demonstrate that it nonetheless achieves an equivalent level of compliance with the relevant provisions of the MLFPT Act.
- iv) The guideline provided by the EFIU may be updated and revised from time to time. The EFIU therefore advises accountable institutions to regularly monitor communications from the EFIU so as to stay abreast of the current guideline developments.

Contents

PREFACE.....	2
APPLICATION OF THIS GUIDELINE.....	5
ABBREVIATIONS.....	6
INTRODUCTION.....	7
PART 1 - WHO MUST REPORT?.....	7
PART 2 – WHEN DOES THE REPORTING OBLIGATION ARISE IN TERMS OF SECTION 12 <i>bis</i> OF THE MLTFP ACT.....	7
THE REPORTING OF “CASH” DEFINED.....	8
Submitting full particulars and readily available information on the reporting platform of the EFIU.....	9
AGGREGATION OF CASH AMOUNTS LEADING TO CASH THRESHOLD REPORTING.....	9
DIRECTIONALITY OF CASH TRANSACTIONS WHEN REPORTING CTR.....	10
PART 3 – MULTIPLE REPORTING WHERE CASH IS RECEIVED.....	13
Multiple cash transaction reporting obligations arising from the same transaction:.....	13
FOREIGN EXCHANGE RATE CONVERSION.....	15
PART 4 – METHODS FOR SUBMITTING CASH THRESHOLD REPORTS TO THE EFIU.....	15
METHOD OF FILING A CTR.....	15
TIME PERIOD FOR SUBMITTING A CASH THRESHOLD REPORT.....	15
KNOWLEDGE OF THE TRANSACTION.....	15
Appendix A- Guidance on Populating of CTR Reporting Template.....	17
Appendix B- CTR Reporting Template.....	18

APPLICATION OF THIS GUIDELINE

The objective of this guideline is to assist accountable institutions to meet their cash threshold reporting obligations in terms of the MLTFP Act. It provides general guidance on the obligations in terms of section 12 of the MLTFP Act. The guideline explains reporting timelines, how reports must be sent to the EFIU, and what information has to be included in these reports.

The Guideline takes effect on **1 October 2024**

ABBREVIATIONS

ADT	Automated Deposit Terminal
ATM	Automated Teller Machine
EFIU	Eswatini Financial Intelligence Unit
MLTFP Act	Money Laundering and Financing of Terrorism (Prevention) Act, 2011(MLTFP Act)
MLTP (Amendment) Act, 2016	Money Laundering and Financing of Terrorism (Prevention) (Amendment) Act, 2016.
CTR	Cash Threshold Report

DEFINITIONS

Accountable Institutions means any person, including, but not limited to, a financial institution licensed under the Financial Institutions Act, 2005, who carries on the business or activity as listed in Schedule 3 (under Section 2) to the MLTFP Act.

Aggregated cash amount refers to series of cash transactions that equal or over E 25 000 which occur over a period of 24 hours (calendar day) in a specific Bank account. For the purpose of this guideline, the 24-hour period always commences at 12 midnight to the last minute of that specific calendar day in question. Aggregation is always done at account level not at account level.

“CTR” refers to a cash threshold report submitted in terms of section 12 *bis* of the MLTFP (Amendment) Act, 2016.

The EFIU” means the Eswatini Financial Intelligence Unit established in terms of section 19 of the MLTFP Act.

“Reporter” refers to the person or entity making the report

INTRODUCTION

1. The MLTFP (Amendment) Act, 2016 provides for the obligation on accountable institutions to report cash transactions above a prescribed threshold to the EFIU in the prescribed manner.
2. This guideline consists of four parts:
 - 2.1. **Part 1:** explains that accountable institution has a reporting obligation in terms of section 12 *bis* of the MLTFP (Amendment) Act, 2016
 - 2.2. **Part 2:** explains when the reporting obligation arises.
 - 2.3. **Part 3:** provides practical examples of when multiple reports must be sent to the EFIU
 - 2.4. **Part 4:** provides for the methods of submitting cash threshold reports to the EFIU

PART 1 - WHO MUST REPORT?

3. The obligation to report cash transactions above the prescribed threshold in terms of section 12 *bis* of the MLTFP (Amendment) Act applies to:
 - 3.1 Accountable institutions as listed in Schedule 3 (under Section 2) to the MLTFP Act.

PART 2 – WHEN DOES THE REPORTING OBLIGATION ARISE IN TERMS OF SECTION 12 *bis* OF THE MLTFP Act

4. The obligation to report in terms of section 12 *bis* of the MLTFP (Amendment) Act arises when a transaction, is concluded with a client by means of cash equal or above **E25 000.00**. A Cash threshold report should be filed with the EFIU when cash:
 - 4.1 Is paid by the accountable institution to the client, or to a person acting on behalf of the client, or to a person on whose behalf the client is acting; or
 - 4.2 Is received by the accountable institution from the client, or from a person acting on behalf of the client, or from a person on whose behalf the client is acting.
5. The obligation therefore extends to cash in excess of the prescribed amount being **paid** or **received** by the accountable institution.
6. It also arises when a series of aggregated cash transactions equal to or above E25 000 are concluded within a 24-hour period.

THE REPORTING OF “CASH” DEFINED

7. Cash is:
 - 7.1 Coin and paper money of the Kingdom of Eswatini or of another country (foreign currency) that is designated as legal tender and that circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue; and
8. Cash does not include bearer negotiable instruments. It also does not include a transfer of funds by means of electronic funds transfer, wire transfer and other written order that does not involve the physical transfer of cash. These methods of transferring funds are not regarded as cash and are therefore not reportable.
9. Where a transaction is partly a cash transaction, only the cash portion equal or exceeding the prescribed threshold must be reported to the EFIU as soon as possible but not later than two working days, (*excluding Saturdays, Sundays and public holidays*) after becoming aware of a fact of a cash transaction that has exceeded the prescribed limit.
10. Physical cash payments equal to or above the threshold presented to and received by, or on behalf of, the accountable institution is reportable. Where an accountable institution makes a pay out to a client consisting of physical cash equal to or above the threshold amount, this will also be reportable.

Example 1-Motor Dealer

Brain entered a motor vehicle dealer shop in Matsapha and purchased a grey car. He paid E60 000 for the car in cash. This transaction is reportable. Accountable institution (the motor dealer) must report the E60 000,00 **cash received** from Brain.

Example 2- Hardware

ABC Hardware Pty Ltd received an amount of E 70 000 from Brian who was making monthly savings of E 10 000 made over a period of seven (7) months, which were savings made toward his property development project. On the eighth (8th) month Brain decided to stop pursuing his project and cancelled his savings account with ABC Hardware Pty Ltd and requested for a refund of E 70 000 in cash. ABC Hardware Pty Ltd returns the cash. This transaction is reportable. Accountable institution ABC Hardware Pty Ltd must report the **cash paid** to Brain of E70 000.

11. Payment or receipt of cash includes paying or receiving cash in person as well as paying or receiving cash via a third party.
12. The cash transactions referred to in this guideline can either be a cash deposit or cash withdrawal. These reportable cash transactions can either be executed at a teller point or through ATMs or ADTs.
13. The aggregated cash amounts should not be from different transaction types. That is, cash deposits should not be aggregated with cash withdrawal transactions. Cash deposit transactions should be aggregated separately. Likewise, cash withdrawal transactions should be aggregated separately.

14. Cash threshold reports should be filed with the EFIU within two (2) working days after becoming aware of the cash transactions that have reached or exceeded the prescribed limit.

Submitting full particulars and readily available information on the reporting platform of the EFIU

15. An accountable institution shall provide information in relation to particulars of any cash transaction equal to or above the amount of E25 000.00 in a manner that is prescribed by the EFIU.

15.1 **Appendix A** prescribes the information that is to be provided by the accountable institutions when completing a CTR.

15.2 The EFIU reporting template (**refer Appendix B**) contains several mandatory fields that must be completed. These fields should not be left blank.

15.3 Where a field must be completed with prescribed particulars that are readily available and the reporter does not have the information in question, the reporter must indicate that the information was not obtained.

AGGREGATION OF CASH AMOUNTS LEADING TO CASH THRESHOLD REPORTING

16. Aggregation of cash transaction is defined

16.1 as multiples of smaller cash transactions that would add to the threshold amount or above where an accountable institution has knowledge of being conducted by or on behalf of the same person and result in either cash in or cash out totaling to E 25 000.00 or above within a 24-hour period.

16.2 In the aggregation of cash transactions debits must be added to debits, and credits must be added to credits. If cash debit or credit totals equals or exceeds E25 000.00 in a 24-hour period, a CTR is required. If debits and credits each exceed 25 000.00, they can each be reported on a single CTR. Accountable institutions should not off-set debits and credits against one another for reporting purposes.

17. Accountable institutions should be mindful of structured cash transactions where clients may avoid reporting obligations. It is therefore possible that a cash transaction could give rise to an obligation to report a cash threshold report in terms of section 12 *bis* of the MLTFP (Amendment) Act and a suspicious or unusual transaction.

Example 6: Casino

A person enters a casino with E110 000,00 in cash. He has a run of bad luck and ends up buying in five times for E22 000,00 each over a period of eight hours. All the cash buy-ins relate to the same person. Although each buying would not meet the CTR thresholds, the casino should consider whether a suspicious and unusual transaction report should be filed in terms of section 12 of the MLTFP Act.

18. Whilst certain cash transactions may not be reportable (i.e. the cash value is below the threshold amount), all cash transactions should be monitored in terms of section 11 of the MLTFP Act, and when it is deemed as suspicious, a suspicious or unusual transaction report should be submitted to the EFIU in terms of section 12 of the MLTFP Act.

DIRECTIONALITY OF CASH TRANSACTIONS WHEN REPORTING CTR

19. Cash threshold transactions should be reported as per the direction thereof, being cash received or cash paid.

Example 7:

Brown Investments receives cash from Client Yellow to the amount of E50 000,00 in relation to Product ABC on the morning of 10 August 2023. Brown Investments pays out E60 000,00 to Yellow in relation to Product ABC on the same day.

Brown Investments must report the E50 000,00 **cash received** from Client Yellow. Brown Investments must also report the **cash paid** to Client Yellow of E60 000,00.

Brown Investments would therefore submit two reports to the EFIU, one CTR for the cash transactions received, and one CTR for cash paid.

Example 8: Credit Provider

A credit provider Brown Investments receives a loan application from Client Yellow to the amount of E50 000,00 on the morning of 10 August 2023. Brown Investments pays out E50 000,00 cash to Client Yellow. As an accountable institution listed in Schedule 3 of the MLTFP Act and has a reporting obligation in terms of section 12 *bis* of the MLTFP Act to report this transaction. Brown Investments must report the E50 000,00 **cash paid** to Client Yellow.

20. SPLITTING A TRANSACTION INTO TWO OR MORE LINK ACCOUNTS

Customers may deliberately split a larger cash transaction into several smaller transactions to try avoiding a CTR being submitted. This is called structuring, a common money laundering technique used to launder illicit funds. Structuring transactions to avoid reporting is a criminal offence. Accountable institutions must consider whether the customer has reasonable explanation for conducting multiple transactions, or whether this activity is suspicious. If an accountable institution reasonably suspects that transactions have been structured to try and prevent them being reported in a CTR, the accountable institution must file an STR to EFIU. Accountable institution transaction monitoring program must be able to detect possible structuring of cash transactions and include triggers for further investigation and reporting to EFIU if required.

Example 9: Splitting a transaction into two accounts – CTR required

Brian holds several accounts with Bank C. He visits the bank with E34,000 in cash and asks to deposit E 30,000 into his first bank account and E4,000 into his second account. Bank C has provided two separate designated services to Brian. As the first transaction exceeds the E25,000 threshold, Bank C has an obligation to submit a CTR to EFIU for that transaction.

The obligation to provide a CTR does not apply to the second transaction of E 4,000, as this transaction does not meet the E 25,000.00 threshold.

Example 10: Purchase of gaming chips-CTR NOT required

Brian attends Casino C and exchanges E 7000 in cash for gaming chips at the casino cage. He then goes to a blackjack table and purchases another E5000 in a gaming chip using cash.

There is no obligation to submit a CTR because purchase of the gaming chips is a separate designation service, despite the short timeframe between transactions. Neither of the transactions involve a threshold transaction. However, if Brian's behavior raises suspicion of possible structuring because there does not appear to be a reasonable and plausible explanation for his behavior, then a STR must be filed to the EFIU.

Example 11: Splitting a transaction into two accounts-CTR required

Brian holds several accounts with Bank C. He visits the bank with E57 000.00 in cash and deposits E32 000.00 into his first account and E25,000 into his second account. Bank C has provided two separate designated services to Brian. Both transaction amounts exceed the E 25 000.00 threshold. Bank C has an obligation to submit two CTRs to EFIU— one for the E32 000.00 transaction and one for the E25 000.00 transaction.

Example 12: Splitting a transaction into two accounts-CTR NOT required

Brian holds several accounts with Bank C. He visits the bank with E30 000 in cash and deposits E 18 000.00 into his first account and E 12,000 into his second account. Bank C. Bank C does not need to submit a CTR for either deposit as neither of the deposits meet the E25 000 threshold. Bank C should consider filing a STR with the EFIU if these transactions are deemed to be structured.

PART 3 – MULTIPLE REPORTING WHERE CASH IS RECEIVED

21. In instances where cash equal to or in excess of the prescribed amount is paid by the accountable institution:
- 21.1 To the client, or
 - 21.2 To a person acting on behalf of the client, or
 - 21.3 To a person on whose behalf the client is acting.
22. In instances where cash equal to or in excess of the prescribed amount is received by the accountable institution:
- 22.1 From the client;
 - 22.2 From a person acting on behalf of the client; or
 - 22.3 From a person on whose behalf the client is acting.

Multiple cash transaction reporting obligations arising from the same transaction:

23. The following are examples of instances where more than one accountable institution will be required to report information relating to the same transaction.

Example 13: Motor vehicle dealers

The client Z of a motor vehicle dealer (MVD), CBA Motors, elects to pay in cash after purchasing a motor vehicle from CBA Motors for the amount of E55 000,00. The MVD has a strict no cash policy and requests the client to pay the cash into CBA Motors' bank account at BMD Bank. BMD Bank receives the cash amount of E55 000,00. BMD Bank is an accountable institution as listed in Schedule 3 of the MLTFP Act and has a reporting obligation in terms of section 12 *bis* of the MLTFP (Amendment) Act to report this transaction.

CBA Motors receives and peruses its bank statement or receives a bank deposit slip from the client which reflects the transaction that exceeded the prescribed threshold. CBA Motors “acquired knowledge” of the cash that went into its bank account and now has an obligation to report in terms of section 12 *bis* of the MLTFP (Amendment) Act. As a result, this transaction will have to be reported to the EFIU in terms of section 12 by both the motor vehicle dealer and the bank.

In this example, both the MVD and BMD Bank are required to report a CTR to the EFIU. The MVD is reporting their client, client Z and the underlying transaction, whereas BMD Bank is reporting their client who is CBA Motors.

Example 14: Insurance

The client X has a life policy with ABC Insurance, the client is in arrears amounting to E25 000 and he approaches ABC Insurance with E25 000.00 cash to settle his arrears. ABC has a strict no cash policy and requests the client to pay the cash into ABC's bank account at BMD Bank. BMD Bank receives the cash amount of E25 000,00. BMD Bank is an accountable institution as listed in Schedule 3 of the MLTFPA and has a reporting obligation in terms of section 12 *bis* of the MLTFP (Amendment) Act to report this transaction.

ABC Insurance receives and peruses its bank statement or receives a bank deposit slip from the client which reflects the transaction that exceeded the prescribed threshold. ABC insurance "acquired knowledge" of the cash that went into its bank account and now has an obligation to report in terms of section 12 *bis* of the MLTFP (Amendment) Act. As a result, this transaction will have to be reported to the EFIU in terms of section 12 by both the insurer and the bank.

In this example, both ABC Insurance and BMD Bank are required to report a CTR to the EFIU. ABC Insurance is reporting their client, client X and the underlying transaction, whereas BMD Bank is reporting their client who is ABC Insurance.

Example 16: Attorneys

The client of XYZ Attorneys, Client Z, elects to pay a cash amount as part of a transaction in the amount of E50 000,00 to XYZ Attorneys. XYZ Attorneys request the client to pay the cash into XYZ Attorneys' trust account at ABC Bank. ABC Bank receives the cash amount of E50 000,00. ABC Bank is an accountable institution as listed in Schedule 3 of the MLTFP Act and has a reporting obligation in terms of section 12 *bis* of the MLTFP (Amendment) Act. XYZ Attorneys receives and peruses its bank statement or receives a bank deposit slip from the client which reflects the transaction that exceeded the prescribed threshold. XYZ Attorneys is an accountable institution as listed in Schedule 3 to the MLTFP Act. XYZ Attorneys "acquired knowledge" of the cash that went into its trust account and now has an obligation to report in terms of section 12 *bis* of the MLTFP (Amendment) Act. As a result, this transaction will have to be reported to the EFIU in terms of section 12 *bis* by both the attorney's firm and the bank.

24. Accountable institutions must ensure that transactional scenarios are listed correctly and that the underlying client, or sender and the beneficiary or recipient parties are captured accordingly.

FOREIGN EXCHANGE RATE CONVERSION

25. Where foreign currency forms part of a cash transaction that requires the completion of a CTR, an accountable institution would have to refer to the exchange rate at the time of the transaction to calculate the amount in Eswatini's Lilangeni (SZL). The source of the exchange rate that is used may be determined at the discretion of the accountable institution in question. Note that when the cash received from the client (cash deposit), and cash paid out to the client (cash withdrawal) both equals and or exceed the threshold amount, two cash threshold reports must be submitted to the EFIU.

PART 4 – METHODS FOR SUBMITTING CASH THRESHOLD REPORTS TO THE EFIU

METHOD OF FILING A CTR

26. Accountable institutions must access the CTR reporting template on the EFIU website www.sfiu.org.sz. CTR reports are filed with the EFIU through the email below:

efiu_ctr@sfiu.org.sz

27. An accountable institution may only file CTRs by other means in exceptional circumstances where the reporter does not have the technical capability to report electronically to the EFIU. In such cases reporters should contact the EFIU on +268 2405 9000 to obtain the manual reporting form for completion and to make arrangements for its delivery to the EFIU.

TIME PERIOD FOR SUBMITTING A CASH THRESHOLD REPORT

28. In terms of S12 of the MLTFP Act a cash threshold report must be sent to the EFIU as **soon as possible** but not later than two (2) working days after a natural person or any of his or her employees, or any employees of or officers of a legal person or other entity, has become **aware** of a fact of a cash transaction that has exceeded the prescribed threshold.

29. Accountable institutions would therefore need to consider and document their cash threshold reporting procedure to ensure that the time periods for reporting are adhered to strictly.

30. Accountable institutions should conduct frequent reviews and sample reports to ensure reports adhere to the EFIU's requirements.

31. Accountable institutions should conduct appropriate pre-validation and ensure that accurate information is timeously reported to the EFIU.

KNOWLEDGE OF THE TRANSACTION

32. The accountable institution will be required to file a CTR with the EFIU when the accountable institution has knowledge of the transaction that exceeds the prescribed threshold. This knowledge will normally be acquired when the accountable institution:

32.1 Physically receives or pays out cash equal to or exceeding E25 000.00; or

32.2 Peruses its bank statement or a bank deposit slip from the client reflecting a cash transaction that equals

or exceeds E25 000.00.


33. It is therefore prudent and expected that accountable institutions monitor their bank accounts on a daily basis.
34. Where cash is received or paid by an accountable institution into or from an account held in the name of another accountable institution, there is a duty on that first accountable institution as well as the other accountable institution to report such transaction to the EFIU.
35. This means that there will be instances where two or more accountable institutions will be required to submit reports in terms of section 12 *bis* of the MLFTP (Amendment) Act to the EFIU with regard to one transaction that equals or exceeds the prescribed threshold.

Appendix A- Guidance on Populating of CTR Reporting Template

This section seeks to provide guidance on how accountable institutions should populate the CTR reporting Template.

- a. **Name of reporting Accountable Institution** – This is a mandatory field where the name of the reporting accountable Institution filing the CTR is populated.
- b. **Reporting date** - Date on which the report is filed with the EFIU. This is also a mandatory field.
- c. **Cash Transactions Details Section**-The section covers details of the cash transaction (deposit or withdrawal) concluded between a natural person (customer) and an accountable institution or reporting institution in accordance with the type of business carried on by that institution. Below are the mandatory fields to be completed by accountable institutions when filing a CTR with the EFIU:
- d. **Transaction (s) date** – Accountable institutions are expected to capture the date on which the transaction (s) is or is completed.
- e. **Transaction Type** – Accountable institutions are expected to choose whether the cash transaction is a cash deposit or cash withdrawal. Cash transaction type can either be a cash deposit or cash withdrawal.
- f. **Location of Transaction** - Accountable institutions are expected to capture the town where the cash transaction was completed.
- g. **Transaction Channel** – Accountable institutions are expected to capture the delivery channel used to complete the reportable cash transactions. Cash transactions can be executed at teller point or through ATMs.
- h. **Single Cash Transactions**-A single or one cash transaction equaling or exceeding the prescribed threshold of E25 000 should be clearly captured under the single transaction section of the reporting template.
- i. **Aggregated Cash Transactions**-In the event of a series of cash transactions with a sum equal to or over E 25 000 occurs over a period of 24 hours (calendar day) in a specific Bank account, each transaction must be listed separately on the CTR form / template. These transactions should be captured separately in the reporting template even if each transaction is below the prescribed
- j. **Account Holder Names** – Accountable institutions are expected to capture the names and surnames of the account holders where the cash transaction is executed. The Customer holder can also include the name of the affected legal person.
- k. **Account Holder Account Number** - Accountable institutions are expected to capture the account number where the cash transaction is executed. For non-Banks, a customer account number can be the customer's unique reference number.
- l. **Account Holder ID/ Passport Number/ Company Registration Number** – Accountable institutions should capture national identification number for Swazis and non-Swazis in possession of Swazi identify card. For non-Swazis without local Identity documents, reporting institutions should capture the passport number of the account holder where the cash deposit is executed. Accountable institutions should capture company registration numbers for cash transactions executed in a Legal person account.

Appendix B- CTR Reporting Template

 ESWATINI FINANCIAL INTELLIGENCE UNIT CASH THRESHOLD REPORTING SPREADSHEET									
Entity Name and Reporting Date		Cash Transactions Details				Cash Transaction	Customer Account Holder Details		
Name of Reporting Institution	Reporting Date	Transaction (s) Date	Transactions Type	Location of Transaction (Town)	Transaction Channel	Transaction Amt	Account Holder Names	Account Holder Acc Number	Account Holder ID/ Passport Number/ Company Registration Number
ABC Bank	23-Mar-23	21-Mar-23	Cash Deposit	Manzini	ATM	26 000,00	Sipho Dlamini	77034345501	9212906100234

Issued by:

THE DIRECTOR

ESWATINI FINANCIAL INTELLIGENCE UNIT

DATE: 24 September 2024